

### REMARKS

Claims 1-11 are pending in the application. In the Office Action of June 7, 2004, the Examiner made the following disposition:

- A.) Objected to Figures 1-7.
- B.) Objected to the specification for informalities.
- C.) Rejected claims 10 and 11 under 35 U.S.C. §112, first paragraph.
- D.) Rejected claims 9 and 10 under 35 U.S.C. §112, second paragraph.
- E.) Rejected claims 1-5 under 35 U.S.C. §102(e) as being anticipated by *Delp et al.*
- F.) Rejected claims 6-8 under 35 U.S.C. §103(a) as being unpatentable over *Delp et al.* in view of *Regache*.
- G.) Rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Delp et al.*
- H.) Rejected claims 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Delp et al.* and further in view of *Dail et al.*

Applicant addresses the Examiner's disposition as follows:

A.) Objection to Figures 1-7:

Figures 1-7 have been amended as per the Examiner's request to overcome the objection. Specifically, Figures 1-7 have been labeled "RELATED ART."

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

B.) Objection to the specification for informalities:

The specification has been amended as per the Examiner's request to overcome the objection. Specifically, at page 2, line 13, "t(tn" has been replaced with "t<tn" to correct a typographical error. At page 18, line 2, after "network," the "l" has been deleted to correct a typographical error. No new matter is added by the amendments presented herein.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

C.) Rejection of claims 10 and 11 under 35 U.S.C. §112, first paragraph:

Claims 10 and 11 have been canceled.

D.) Rejection of claims 9 and 10 under 35 U.S.C. §112, second paragraph:

Claims 9 and 10 have been canceled.

E.) Rejection of claims 1-5 under 35 U.S.C. §102(e) as being anticipated by *Delp et al.*:

Applicant respectfully traverses the rejection.

Regarding claims 1-4:

Independent claim 1 has been amended to include the subject matter of claim 3. Claims 3 and 4 have been canceled.

Claim 1, as amended, claims a packet transmitting method comprising the steps of: controlling a timing of packet transmission in a transmission terminal on a packet network; and controlling the amount of data to be transmitted per unit time from the transmission terminal to the network. A packet is transmitted at an interval according to a packet size.

This is clearly unlike *Delp*, which fails to disclose or even suggest transmitting a packet at an interval according to a packet size. Instead, *Delp* merely transmits packets at predetermined intervals. The Examiner argues that *Delp* Figure 12 teaches transmitting a packet at an interval according to a packet size, however, Applicant respectfully disagrees. *Delp* Figure 12 merely illustrates that a smaller sized packet L2 (40 bytes) takes less time to transmit over a network than a larger sized packet L1 (1500 bytes). For example, over a 1 Gigabit link speed, L2 takes 320 nanoseconds, while L1 takes 12 microseconds. This disclosure in *Delp* clearly fails to even relate to transmitting a packet at an interval according to a packet size. Instead, *Delp* Figure 12 merely states that smaller packets take less time to cross a network 1202 than larger packets.

Claim 2 depends directly or indirectly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Regarding claim 5:

Claim 5 claims a packet transmission apparatus comprising time calculating means for calculating time necessary for transmitting each packet; and means for controlling a timing of packet transmission based on the time for transmitting each packet, calculated by the time calculating means.

Referring to Applicant's Figure 8 as an illustrative example, each packet (pkn) can have a time for transmitting the packet (txn) associated with the packet. That is, different packets may require different amounts of time to transmit. The timing of packet transmission is based on the

calculated time necessary for transmitting each packet. For example, if the apparatus calculates that it will take 10 seconds to transmit a first packet, after beginning the transmission of the first packet, the apparatus can wait 10 seconds before transmitting a second packet.

This is clearly unlike *Delp*, which fails to disclose or even suggest controlling a timing of packet transmission based on a calculated time for transmitting each packet. *Delp* fails to even discuss calculating a time necessary for transmitting each packet. Instead, *Delp* Figure 12 teaches that a smaller sized packet L2 (40 bytes) takes less time to transmit over a network than a larger sized packet L1 (1500 bytes). Unlike claim 5, nowhere does *Delp* disclose or even suggest calculating a time for transmitting each packet. Therefore, *Delp* fails to disclose or even suggest claim 5.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

F.) Rejection of claims 6-8 under 35 U.S.C. §103(a) as being unpatentable over *Delp et al.* in view of *Regache*:

Applicant respectfully disagrees with the rejection.

Claims 6 and 7 each claim independently controlling a packet order and a packet flow rate on a packet network.

This is clearly unlike *Delp* in view of *Regache*, which fails to disclose or suggest independently controlling a packet order and a packet flow rate on a packet network. The Examiner argues that *Delp* discloses or suggest independently controlling a packet order and a packet flow rate on a packet network, however, Applicant disagrees. *Delp* teaches methods for scheduling and transmitting cells or frames over an ATM network. As clearly described in *Delp*, a "cell/frame scheduler 102 is fed by a data enqueue mechanism 202 providing transmission/processing queues 204 with each queue including a logical channel descriptor (LCD) 206 or other such type of logical connection or identified data flow control block." (Col. 4, lines 28-33). Each "LCD 206 includes a next LCD pointer 209 for linking LCDs together at a timing wheel slot. LCD 206 includes pointers to a chain of cells and/or packets to be transmitted including a head of cell/packet queue pointer 210 and a tail of cell/packet queue pointer 212." (Col. 4, line 65-col. 5, line 3).

Thus, unlike claims 6 and 7 that claim independently controlling a packet order and a packet flow rate, *Delp* merely discloses a FIFO queue of cells/frames/packets as designated by the pointers in the LCDs. *Delp's* cells/frames/packets arrive in a sequential order and leave in the

same sequential order, as defined by the pointers in the LCDs. The order of *Delp's* cells/frames/packets is not independently controlled with respect to control of packet flow rate. *Delp's* cells/frames/packets are merely sequentially ordered. Nowhere does *Delp* disclose or even suggest independently controlling a packet order and a packet flow rate on a packet network.

Therefore, *Delp* fails to disclose or suggest claims 6 and 7.

Further, *Delp* in view of *Regache* fails to disclose or suggest independently controlling a packet order and a packet flow rate on a packet network. Nowhere does *Regache* disclose or even suggest independently controlling a packet order and a packet flow rate on a packet network. Therefore, *Delp* in view of *Regache* still fails to disclose or suggest claims 6 and 7.

Claim 8 depends from claim 7 and is therefore allowable for at least the same reasons that claim 7 is allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

G.) Rejection of claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Delp et al.*:

Claim 9 has been canceled.

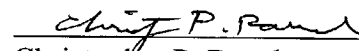
H.) Rejection of claims 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Delp et al.* and further in view of *Dail et al.*:

Claims 9-11 have been canceled.

### CONCLUSION

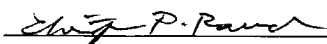
In view of the foregoing, it is submitted that claims 1-2 and 5-8 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited as First Class Mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on November 8, 2004.

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